

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF IOWA
WESTERN DIVISION

TRAVIS R. MCPEEK,

Plaintiff,

v.

WOODBURY COUNTY JAIL

Defendant.

No. 13-CV-4072-DEO

INITIAL REVIEW ORDER

I. INTRODUCTION

This matter is before the Court on Travis McPeek's (hereinafter Mr. McPeek) 42 U.S.C. § 1983 Complaint against the Woodbury County Jail, his Motion to Proceed In Forma Pauperis, and his Motion for Appointment of Counsel. Mr. McPeek alleges that the Woodbury County Jail (1) used excessive force, assaulted and sexually assaulted Mr. McPeek and (2) confined Mr. McPeek in an unsanitary living environment which contained black mold.

II. ANALYSIS

42 U.S.C. § 1983 specifically provides for a federal cause of action against a "person" who, under color of state law, violates another's federal rights. In Will v. Michigan Dept. of State Police, et al., the Supreme Court ruled "that a State is not a person within the meaning of § 1983." 491

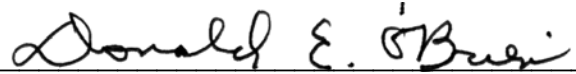
U.S. 58, 63 (1989). If Mr. McPeek wishes to file a 42 U.S.C. § 1983 action against individuals, he may, but he must name the specific individuals he alleges violated his constitutional rights. Numerous courts have ruled that a suit against "the jail" cannot succeed under 42 U.S.C. § 1983.

Because "Woodbury County Jail" is a division of the State of Iowa, and is not a person, a § 1983 suit against it fails as a matter of law. Additionally, the Court notes that Mr. McPeek failed to articulate which right he believes was infringed by "the Woodbury County Jail." In any subsequent suit, Mr. McPeek is advised to articulate a specific right which he believes was violated by the individual acting under color of state law.

III. CONCLUSION

The Clerk of Court shall file Plaintiff's Complaint for the record, and the Complaint is dismissed. Plaintiff's motions to proceed in forma pauperis and for appointment of council are denied as moot. Plaintiff is granted leave to refile his 42 U.S.C. § 1983 Complaint, so long as it names a proper party, subject to any applicable statute of limitations.

IT IS SO ORDERED this 6th day of August, 2013.

A handwritten signature in cursive script, reading "Donald E. O'Brien", positioned above a horizontal line.

Donald E. O'Brien, Senior Judge
United States District Court
Northern District of Iowa